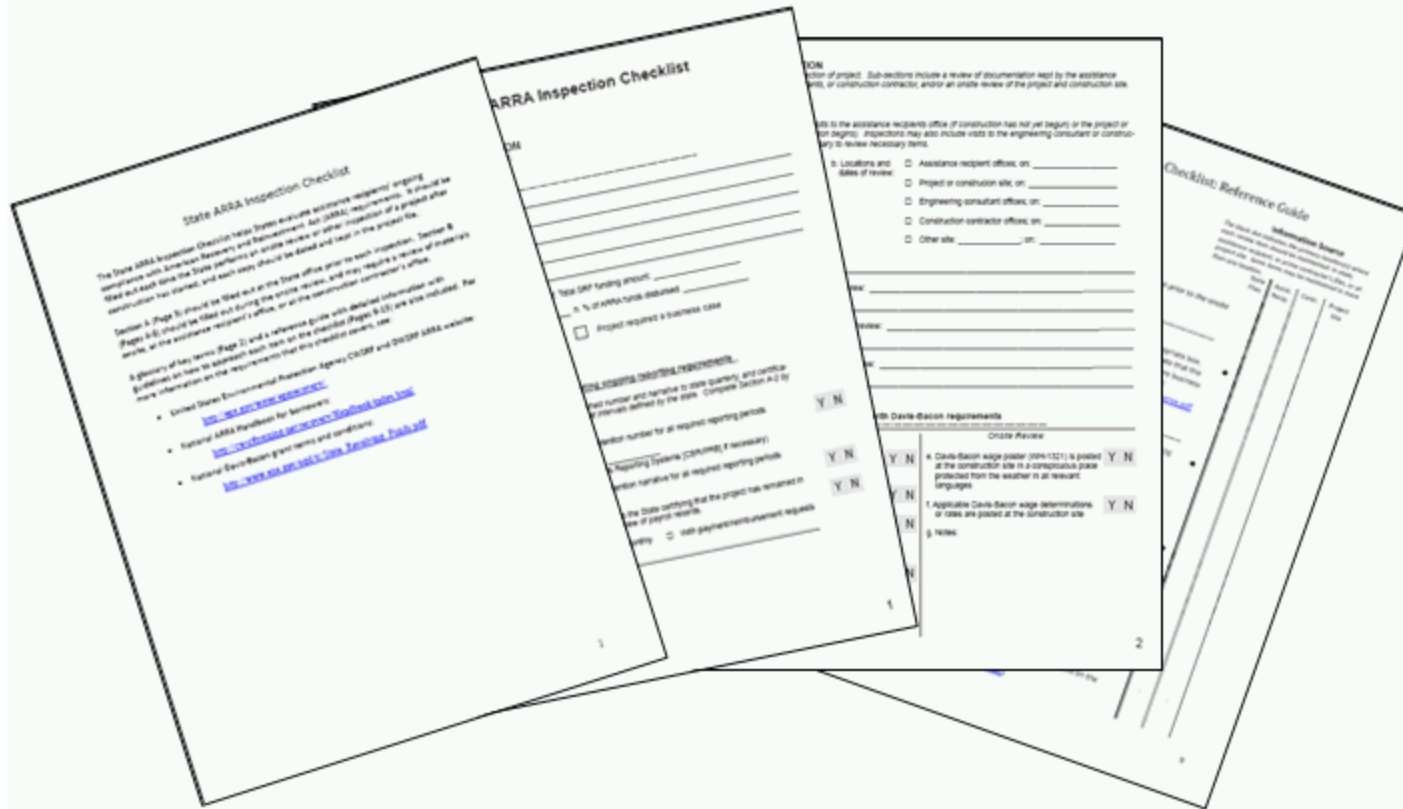


# ARRA Inspection Checklist



## ARRA Inspection Checklist

## Presenters

- Sarah McFate and Daniel Gonzalez-Kreisberg, Northbridge Environmental
- EPA HQ Staff is also available to help answer questions, as necessary

Presenters

# Agenda

1. Background
2. The ARRA Inspection Checklist
3. Addressing non-compliance
4. Fitting the ARRA Inspection Checklist into existing state processes

Agenda

## Audience

- State SRF managers and inspectors
- EPA Regional staff
- Assistance recipients, engineering consultants, and construction contractors are NOT targeted in this webcast

Audience

# Handouts

- Copy of slides that are being presented today
- Word and pdf copy of the ARRA Inspection Checklist
- ARRA Reference Guide

Handouts

## Questions and Answers

- We will periodically pause for Question and Answer Sessions
- It is easier for us if questions come in one by one, rather than all at once during the Q&A sessions, so do not be afraid to submit your question as soon as it comes to mind!

Questions and Answers

# Inspection Checklist Background

Inspection Checklist Background

## Why is a Checklist Needed?

- ARRA is a game-changer
  - Requirements are new to everyone
  - Scrutiny from EPA OIG, DOL, Congress, the media...
- Feedback from recent SRF national meeting: State SRF managers want to protect borrowers by helping them monitor compliance
- Checklist is a tool provided by EPA for states to use at their discretion

Why is a Checklist Needed?



## What Does the Checklist Cover?

- All ARRA requirements:
  - Davis-Bacon
  - Buy American
  - Jobs Reporting
  - Green Project Reserve (GPR) requirements
  - Poster/Logo requirements
- More information on requirements in the Borrower Handbook (version 3.1 now available):  
<http://cwsrftraining.net/recovery/Handbook/index.html>

What Does the Checklist Cover?

## Purpose of this Training

- Provide an overview of this tool
- Discuss how the checklist might fit into the current project monitoring process
- Discuss possible methods for addressing ARRA compliance concerns

Purpose of this Training

## Lessons from New Mexico

1. Communities are doing their best
  - Assistance recipients want to do the right thing, and generally do their best to comply
  - Input from the state helps to reassure communities that their efforts are going well
2. Communities need more help than usual
  - Many new borrowers
  - Many small borrowers without technical knowledge
  - Many new, complicated requirements

Lessons from New Mexico

## Lessons from New Mexico

3. First visit takes more time, but is key
  - Develop relationship with assistance recipient
  - May require re-explanation of requirements
  - Gives assistance recipient the chance to fix problems at an earlier stage in the process
4. All inspections are different
  - Depends on project size and complexity (large, complex projects require more review)
  - Depends on current stage of construction

Lessons from New Mexico

## Lessons from California

1. Multiple state managers may need to inspect the same project
  - BA, DB, green, reporting may be overseen by different offices/agencies in a State
  - Inspectors should feel confident in the items they check
2. Not all inspections take the same amount of time
  - Inspections as short as 1-2 hours
  - Inspections as long as 5-6

Lessons from California

## Lessons from California

3. Some high risk projects may warrant a closer or more frequent look
  - State has limited resources
  - Particularly as familiarity is gained with different projects and assistance recipients, should target areas where there is a high potential for non-compliance
4. Return visits can be key
  - Most projects are in far better compliance during the second inspection than the first

Lessons from California

## Interim Inspections

- Many states are planning to change their typical interim inspection practices as a result of ARRA

Interim Inspections

# The ARRA Checklist

The ARRA Checklist



## The ARRA Checklist

- Complete **Section A** in the office prior to each inspection
  - Basic project information
  - Review of reporting/certifications in state files
- Complete **Section B** onsite
  - Likely requires visit to assistance recipient office and project/construction site
  - May also require visits to engineer or construction contractor's office

The ARRA Checklist

## Recommended Practice

- Send a letter or email to the assistance recipient prior to the first inspection with a list of items to be reviewed
- This will streamline the visit, and also help logistical planning if it is necessary to visit more than one location

Recommended Practice

# The ARRA Checklist

- Depending on the project, you may skip some sections
  - Several BA sections depending on the project's eligibility for waivers
  - Green section
  - Sections that are only relevant during certain times of construction

The ARRA Checklist

# Section A-1

Section A-1

## SECTION A - PRE-INSPECTION

*Complete at State Office prior to inspection.*

### 1. General Project Information

a. Assistance recipient name: \_\_\_\_\_

b. General project description: \_\_\_\_\_

\_\_\_\_\_

c. Project location: \_\_\_\_\_

d. Project or loan number \_\_\_\_\_

e. Total project cost: \_\_\_\_\_ f. Total SRF funding amount: \_\_\_\_\_

g. ARRA total funding amount: \_\_\_\_\_ h. % of ARRA funds disbursed: \_\_\_\_\_

i. ARRA Green Reserve funding amount: \_\_\_\_\_

☐ Project is categorically qualified for the Green Reserve ☐ Project required a business case

Slide 21

## Section A-1

- Basic project information
- Identify whether project is receiving Green Reserve funding and whether a business case was required
  - Can preemptively fill out Section B-6-a (description of what makes the project green)

Section A-1

## Section A-2

Section A-2

**2. Confirm that assistance recipient is meeting ongoing reporting requirements**

*Assistance recipients must submit job created/retained number and narrative to state quarterly, and certification of Davis-Bacon for compliance for each week at intervals defined by the state. Complete Section A-2 by reviewing state files*

a. Assistance recipient has submitted job creation/retention number for all required reporting periods

Y N

Cumulative number of jobs reported to date: \_\_\_\_\_

(Refer to CWSRF or DWSRF Project Benefits Reporting Systems [CBR/PBR])

b. Assistance recipient has submitted job creation/retention narrative for all required reporting periods

Y N

c. Assistance recipient has submitted regular reports to the State certifying that the project has remained in compliance with Davis-Bacon based on a weekly review of payroll records.

Y N

Reports are submitted: ☐ Weekly ☐ Monthly ☐ With payment/reimbursement requests

☐ Other: \_\_\_\_\_

Slide 24



## Section A-2a and A-2b

- Check project file to ensure that job creation and narrative reports have been submitted as required

*“Four data elements--completion status, project-level disbursements, number of jobs created and retained, and employment impact--must be updated on a quarterly basis.”*

– EPA Guidance,

[http://www.epa.gov/water/eparecovery/docs/2009\\_09\\_30\\_SRF\\_Tracking\\_and\\_Reporting\\_Guidance\\_FINAL.pdf](http://www.epa.gov/water/eparecovery/docs/2009_09_30_SRF_Tracking_and_Reporting_Guidance_FINAL.pdf)

Section A-2a and A-2b



## Section A-2c

- Check project file to ensure that Davis-Bacon certifications have been submitted as required

*“As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week.”*

– EPA Davis-Bacon Terms and Condition §1(3)(a)(3)(ii)(A)  
[http://www.epa.gov/ogd/tc/State\\_Revolving\\_Funds.pdf](http://www.epa.gov/ogd/tc/State_Revolving_Funds.pdf)

## Section A-2c

 Colorado Department of Public Health and Environment	
<b>Project Name:</b> _____	
<b>Period From:</b> _____ <b>To:</b> _____	
 <b>Davis-Bacon Act CERTIFICATION</b>  	
<p>I certify to the best of my knowledge and belief that the above referenced project:</p> <p>Complies with Section 1606 (Davis-Bacon and Related Acts) of ARRA and that all laborers and mechanics employed by contractors and subcontractors during the above referenced period were paid wages at rates not less than those listed on the prevailing wage rate contained in the contract documents and that all applicable provisions of the Davis-Bacon and Related Acts have been met.</p>	
_____ Name of ARRA Recipient	_____ Date
_____ Signature of Authorized Official	
_____ Print Name and Title of Authorized Official	

Slide 27

# Question and Answer Session #1

Have a question?  
Submit it using the Q&A console

Question and Answer Session #1

## Section B-3

Section B-3

## SECTION B - ONSITE REVIEW

*To be completed during inspection of project. Sub-sections include a review of documentation kept by the assistance recipient, engineering consultants, or construction contractor, and/or an onsite review of the project and construction site.*

### 3. Inspection Information

*All inspections should include visits to the assistance recipients office (if construction has not yet begun) or the project or construction site (once construction begins). Inspections may also include visits to the engineering consultant or construction contractor's office, as necessary to review necessary items.*

- a. Inspection number: \_\_\_\_\_
- b. Locations and dates of review:
- ☐ Final/Close-out inspection
- ☐ Assistance recipient offices; on: \_\_\_\_\_
- ☐ Project or construction site; on: \_\_\_\_\_
- ☐ Engineering consultant offices; on: \_\_\_\_\_
- ☐ Construction contractor offices; on: \_\_\_\_\_
- ☐ Other site: \_\_\_\_\_; on: \_\_\_\_\_
- c. State SRF staff reviewer(s): \_\_\_\_\_
- d. Assistance recipient staff present at review: \_\_\_\_\_
- e. Engineering consultation staff present at review: \_\_\_\_\_
- f. Construction contractor staff present at review: \_\_\_\_\_
- g. Other individuals present at review: \_\_\_\_\_
- h. Notes:

Slide 30

## Section B-3

- **Basic inspection information**
  - What sites where visited
  - When were these sites visited
- **Who was present at inspections**
- **Inspection number**
  - If you do more than one inspection for a project, use this line to keep track
  - Only check the box if this inspection report is for a final/close-out inspection

Section B-3

## Sections B-4 and B-5

Sections B-4 and B-5



## Section B-4 and B-5

- Both sections include Davis-Bacon items
- Items included in Section B-4 are compliance items that should be reconfirmed by the state
- Items included in Section B-5 are items that do not need to be reconfirmed by the state; instead, the state should simply check that the assistance recipient has strong processes to oversee the contractor

Section B-4 and B-5

#### 4. Confirm that project is in compliance with Davis-Bacon requirements

Documentation Review		Onsite Review	
a. Assistance recipient has collected payroll records (WH-347 or equivalent) for all laborers/mechanics for all weeks of construction	Y N	e. Davis-Bacon wage poster (WH-1321) is posted at the construction site in a conspicuous place protected from the weather in all relevant languages	Y N
b. Payroll records indicate that employees are paid weekly	Y N	f. Applicable Davis-Bacon wage determinations or rates are posted at the construction site	Y N
c. Assistance recipient has collected signed certifications of Davis-Bacon compliance (WH-347 reverse side or equivalent) for all weeks of construction	Y N	g. Notes:	
d. Assistance recipient has documentation (SF-1445 or equivalent) that wage interviews were conducted	Y N		
Interview dates: _____			
_____			

Slide 34

## Section B-4a and B-4b

- Check that assistance recipients have collected weekly payroll from contractors for all laborers/mechanics
  - Not necessary to review every payroll – that is the assistance recipient's job
  - Make sure that the number of payroll records and types of jobs listed are generally consistent with what you would expect from the project's type and status
  - Check first and last payroll record to make sure they have been submitted for every week

Section B-4a and B-4b

## Section B-4c

- Check that weekly payroll is accompanied by certification of compliance with Davis-Bacon
- Generally the reverse side of the WH-347 payroll form, but may be in any format as long as it contains the same information

Section B-4c

Date \_\_\_\_\_

I, \_\_\_\_\_  
(Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by

\_\_\_\_\_ on the  
(Contractor or Subcontractor)

\_\_\_\_\_ that during the payroll period commencing on the  
(Building or Work)

\_\_\_\_\_ day of \_\_\_\_\_, and ending the \_\_\_\_\_ day of \_\_\_\_\_,

all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said

\_\_\_\_\_ from the full  
(Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS



— In addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH



— Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

NAME AND TITLE	SIGNATURE

THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 33 OF THE UNITED STATES CODE.

Slide 37

## Section B-4d

- Check that assistance recipient has conducted wage interviews as required
- Look for completed 1445 interview forms (should be at least one if the project has been under construction for two weeks or more)

Section B-4d

## Section B-4e and B-4f

- Check that Davis-Bacon poster and Davis-Bacon wage rates are posted at the project/construction site at a **place accessible by laborers and mechanics**
- For many projects, the site of construction moves daily. For these projects, contractors posted signs and wage rates in a nearby supply yard where workers punch in and out every day.

Section B-4e and B-4f

**5. Confirm that assistance recipient is monitoring Davis-Bacon compliance**

*Documentation Review*

- a. Assistance recipient has reviewed weekly payroll submissions to confirm that employees are paid weekly, without unauthorized payroll deductions, and according to the wage determinations established in the contract

Y N

Describe process used to review payroll records: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

- b. Assistance recipient has verified contractor fringe contributions were made as planned

Y N

☐ Fringe paid in cash (weekly)    ☐ Fringe paid to bona fide fringe benefit plan (quarterly)

- c. Assistance recipient has reviewed registrations/certifications documenting that apprentices and trainees are registered with a DOL-approved program (if applicable)

Y N

☐ DOL approved program    ☐ State approved program    Review date: \_\_\_\_\_

- d. Assistance recipient has verified that the ratio of apprentices/trainees working on the project is consistent with the ratios prescribed in the DOL-approved program

Y N

Ratio: \_\_\_\_\_ to \_\_\_\_\_ ; Describe process used to verify ratios: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

- e. Notes:

Slide 40



## Section B-5a

- This section of the checklist relies on interviews with the assistance recipient, rather than straight documentation review
- Confirm and describe the assistance recipient's process for verifying that submitted payroll is complete and correct

*"The subrecipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates."*

*— EPA Davis-Bacon Terms and Condition §1(5)(c)*

Section B-5a

# • How are fringe benefits paid?

Date \_\_\_\_\_

I, \_\_\_\_\_ (Name of Signatory Party) \_\_\_\_\_ (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by \_\_\_\_\_ on the \_\_\_\_\_ (Contractor or Subcontractor); that during the payroll period commencing on the \_\_\_\_\_ (Building or Work) \_\_\_\_\_ day of \_\_\_\_\_, and ending the \_\_\_\_\_ day of \_\_\_\_\_, all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said \_\_\_\_\_ (Contractor or Subcontractor) from the full weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (49 Stat. 548, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

☐ In addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in section 4(c) below.

## (b) WHERE FRINGE BENEFITS ARE PAID IN CASH



Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in section 4(c) below.

## (c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

\_\_\_\_\_

NAME AND TITLE \_\_\_\_\_ SIGNATURE \_\_\_\_\_

THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.

Slide 42

## Section B-5b

- Confirm the assistance recipient's process for confirming contractor fringe contributions
  - Must include confirmation that actual payments have been made

“In addition, during the examinations the subrecipient shall verify evidence of fringe benefit plans and payments there under by contractors and subcontractors who claim credit for fringe benefit contributions.”

– *EPA Davis-Bacon Terms and Condition §1(5)(c)*

[http://www.epa.gov/ogd/tc/State\\_Revolving\\_Funds.pdf](http://www.epa.gov/ogd/tc/State_Revolving_Funds.pdf)

Section B-5b

## Confirming Fringe Contributions

- If a contractor is diverting part of employee's pay for a health plan, insurance plan, 401(k), disability, etc., the assistance recipient must verify that the money is actually going toward plan premiums
- Contractors should be receiving regular statements from any plans they are contributing to
- Assistance recipients should not be afraid to ask for this documentation!

Confirming Fringe Contributions

# Verifying Fringe Benefits

**CONTRACTORS AND EMPLOYEES RETIREMENT PLAN AND TRUST  
CONTRIBUTION SUMMARY**

GROUP NUMBER: K4266

COMPANY: CONTRACTORS, INC. TERMINATION CODES:  
1 - TERMINATED EMPLOYMENT  
2 - DEATH  
3 - DISABILITY  
R - REHIRED

PAYROLL DATE (S): 09/01/09 - 09/30/09

EMPLOYEE NAME:		SOCIAL SECURITY #	TERMINATION CODE / DATE	PREVAIL WAGE	401K	MATCH
LAST	FIRST					
				\$411.15	\$84.61	\$21.16
				\$0.00	\$0.00	\$0.00
				\$469.63	\$0.00	\$0.00
				\$0.00	\$767.88	\$147.88
				\$232.48	\$0.00	\$0.00
				\$0.00	\$750.00	\$110.26
				\$0.00	\$109.00	\$26.00
				\$1,800.56	\$0.00	\$0.00
				\$437.91	\$0.00	\$0.00
				\$0.00	\$0.00	\$0.00
				\$0.00	\$0.00	\$0.00
				\$0.00	\$0.00	\$0.00
TOTAL CONTRIBUTION:				\$3,351.63	\$1,722.29	\$304.60
ADJUSTMENTS (EXPLAIN): SEE ATTACHED				-\$380.91	\$0.00	\$0.00
TOTAL AMOUNT				\$2,960.72	\$1,722.29	\$304.60
AMOUNT OF CHECK:				<b>\$4,987.61</b>		

MAKE CHECKS PAYABLE TO:  
 Contractors and Employees Retirement Trust

MAIL CHECKS WITH THIS FORM TO: P.O. Box 260143, Dallas, TX 75326-0143

PLEASE ENCLOSE AN EMPLOYEE ENROLLMENT FORM FOR EACH NEW PARTICIPANT  
 or via delivery:

Wells Fargo, Contractors & Employees Retirement Trust  
 180260143  
 2975 Regent Blvd., MAC T3339-01X  
 Irving, TX 75063-3149

**PAID**  
 CL NO. 2098  
 DATE 10/13/09

Source: Alliant Consulting Inc.

Slide 45

## Verifying Fringe Benefits

Vendor 000000 CONTRACTORS PLAN TRUST Check No 00008055 09/30/2009 Gross: 7251.00 Disc: 0.00 Net: 7251.00			
ORIGINAL DOCUMENT IS PRINTED ON CHEMICAL REACTIVE PAPER & HAS A MICROPRINTED BORDER / SIGNATURE LINE			
INLAND COMMUNITY BANK 3999 E. Inland Empire Blvd. Ontario, CA 91764 90-4183/1222		8055	
GROUP #CPT10677	CHECK NO. 008055	09/30/09 DATE	\$*7251.00 AMOUNT
SEVEN THOUSAND TWO HUNDRED FIFTY ONE DOLLARS AND 00/100			
PAY TO THE ORDER OF	CONTRACTORS PLAN TRUST (health) 11910 VOLENTE ROAD AUSTIN, TX 78726-1113		
⑈008055⑈		⑈05262⑈	

Source: Alliant Consulting Inc.

Verifying Fringe Benefits

## Section B-5c

### Verify Apprentice/Trainee Registrations

- Apprentices and trainees must be either:
  - Registered with a DOL-approved apprenticeship or trainee program
  - Registered with a state apprenticeship program recognized by DOL


*or*

- Paid full Davis-Bacon wages

Section B-5c Verify Apprentice/Trainee Registrations

Verify that the assistance recipient has checked certifications for any apprentices/trainees working on the project

red 12-15-09

**New Mexico Department of Workforce Solutions**  
 BILL RICHARDSON GOVERNOR      BETTY SPARROW DORIS SECRETARY  
**Apprenticeship**            **Certification**

The following apprentice/s are registered with the State Apprenticeship Council, Labor and Industrial Division, New Mexico Department of Labor under the sponsorship of the New Mexico Joint Apprenticeship and Training Committee for the Electrical Industry.

Issued: April 23, 2009      Requested by: \_\_\_\_\_  
 301 California St NE  
 Albuquerque, NM 87108

Program: 015  
 Trade: ELECTRICAL

Apprentice Name	SS#	Effective	Expires	Trng. Period
John		04/09/09	07/09/09	1 <sup>st</sup>
Leonard		04/09/09	07/09/09	5 <sup>th</sup>
Jerry		04/09/09	07/09/09	4 <sup>th</sup>
Ryan		04/09/09	07/09/09	3 <sup>rd</sup>
Andrew		04/09/09	07/09/09	2 <sup>nd</sup>
Keven		04/09/09	07/09/09	4 <sup>th</sup>
Ian I		04/09/09	07/09/09	5 <sup>th</sup>
Jared		04/09/09	07/09/09	5 <sup>th</sup>
Todd		04/09/09	07/09/09	1 <sup>st</sup>
Michael		04/09/09	07/09/09	3 <sup>rd</sup>
Joseph		04/09/09	07/09/09	5 <sup>th</sup>
Lambert		04/09/09	07/09/09	3 <sup>rd</sup>
Nicholas		04/09/09	07/09/09	3 <sup>rd</sup>

PERIOD OF TRAINING	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>	6 <sup>th</sup>	7 <sup>th</sup>	8 <sup>th</sup>	9 <sup>th</sup>	10 <sup>th</sup>
PERCENTAGE OF WAGE	50%	55%	60%	65%	70%	75%	80%	85%	90%	95%

For all apprentices registered prior to June 1, 2004  
 AND FRINGE BENEFITS THROUGH THE DURATION OF THE PROGRAM.

PERIOD OF TRAINING	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>	6 <sup>th</sup>
PERCENTAGE OF WAGES	45%	50%	55%	60%	70%	80%

For all apprentices registered after June 1, 2004  
 AND FRINGE BENEFITS THROUGH THE DURATION OF THE PROGRAM.

**RATIO:** The maximum allowable ratio of Apprentices to Journeymen under this program is 1:1 on any job.

**RATIO:** Employers should be aware that when Apprentices are employed on Federal Projects covered by the Federal Davis-Bacon Act, regulations under that act state that the ratio of Apprentices on such jobs cannot be greater than the contractor's total allowable workforce ratio.

**CERTIFIED BY:** \_\_\_\_\_  
 Christopher Romero, State Apprenticeship Council Director

Slide 48



## State Apprenticeship Agencies

- DOL recognizes many state apprenticeship programs (see <http://www.doleta.gov/OA/stateagencies.cfm>)
- State apprenticeship programs NOT recognized by DOL include AL, AK, AR, CA, CO, GA, ID, IL, IN, IA, MI, MS, MO, NE, NJ, ND, OK, SC, SD, TN, TX, UT, WV, WY
- If a contractor has apprentice registrations issued by one of these states, it is not sufficient for Federal Davis-Bacon

State Apprenticeship Agencies

## Section B-5d

- Determine the assistance recipient's process for verifying the ratio of apprentices or trainees to journeymen does not exceed the allowable limit of the program those apprentices or trainees are registered in
- There are a few different methods for verifying ratios

Section B-5d

read 12-15-09

**New Mexico Department of Workforce Solutions**  
 BILL RICHARDSON GOVERNOR      BETTY SPARROW DORIS SECRETARY

**Apprenticeship Certification**

The following apprentice/s are registered with the State Apprenticeship Council, Labor and Industrial Division, New Mexico Department of Labor under the sponsorship of the New Mexico Joint Apprenticeship and Training Committee for the Electrical Industry.

Issued: April 23, 2009      Requested by: \_\_\_\_\_  
 301 California St NE  
 Albuquerque, NM 87108

Program: 015  
 Trade: ELECTRICAL

Apprentice Name	SSa	Effective	Expires	Trng. Period
John		04/09/09	07/09/09	1 <sup>st</sup>
Leonard		04/09/09	07/09/09	5 <sup>th</sup>
Jerry		04/09/09	07/09/09	4 <sup>th</sup>
Ryan		04/09/09	07/09/09	3 <sup>rd</sup>
Andrew		04/09/09	07/09/09	2 <sup>nd</sup>
Kevin		04/09/09	07/09/09	4 <sup>th</sup>
Ian I		04/09/09	07/09/09	5 <sup>th</sup>
Jared		04/09/09	07/09/09	5 <sup>th</sup>
Todd		04/09/09	07/09/09	1 <sup>st</sup>
Michael		04/09/09	07/09/09	3 <sup>rd</sup>
Joseph		04/09/09	07/09/09	5 <sup>th</sup>
Lambert		04/09/09	07/09/09	3 <sup>rd</sup>
Nicholas		04/09/09	07/09/09	3 <sup>rd</sup>

PERIOD OF TRAINING	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>	6 <sup>th</sup>	7 <sup>th</sup>	8 <sup>th</sup>	9 <sup>th</sup>	10 <sup>th</sup>
PERCENTAGE OF WAGE	50%	55%	60%	65%	70%	75%	80%	85%	90%	95%

For all apprentices registered prior to June 1, 2004  
 AND FRINGE BENEFITS THROUGH THE DURATION OF THE PROGRAM.

PERIOD OF TRAINING	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>	6 <sup>th</sup>
PERCENTAGE OF WAGES	45%	50%	55%	60%	70%	80%

For all apprentices registered after June 1, 2004  
 AND FRINGE BENEFITS THROUGH THE DURATION OF THE PROGRAM

**RATIO:** The maximum allowable ratio of Apprentices to Journeymen under this program is 1:1 on any job.

**RATIO:** Employers should be aware that when Apprentices are employed on Federal Projects covered by the Federal Davis-Bacon Act, regulations under that act state that the ratio of Apprentices on such jobs cannot be greater than the contractor's total allowable workforce ratio.

**CERTIFIED BY:** \_\_\_\_\_  
 Christopher Romero, State Apprenticeship Council Director

Slide 51

## Question and Answer Session #2

Have a question?  
Submit it using the Q&A console

Question and Answer Session #2

## Section B-6

Confirm that procured items are in  
compliance with Buy American

Section B-6

## Section B-6

- Applies to all project not covered by a National Waiver
  - Bid Waiver or Refinance Waiver exempts projects from Buy American requirements
- Should include review of multiple components, with the actual number depending on the size and complexity of the project and the project stage
- Can be random or can target “high risk” components

Section B-6

**6. Confirm that procured items are in compliance with Buy American requirements**

*Section B-6 may not be applicable to this project or this inspection. If so, please indicate reason for skipping Section B-6*

☐ N/A - Project qualifies for the National Bid or Refinance Waiver

☐ N/A - No iron, steel, or manufactured goods have yet been ordered for this project

☐ N/A - Project does not require any iron, steel, or manufactured goods

*State SRF program managers and staff assigned to the project should decide how many components should be reviewed for each project (see reference guide for more information on making this decision). Additional copies of this page should be made and completed for each component reviewed.*

a. Description of component reviewed:

\_\_\_\_\_

b. Description of the substantial transformation process used to manufacture component:

☐ N/A - component was entirely assembled in the U.S. using U.S.-made subcomponents and raw materials

\_\_\_\_\_

c. Location where substantial transformation occurred: \_\_\_\_\_

Slide 55

Onsite review may not be possible to complete if a component has been ordered and not yet delivered, or if a component has been installed or incorporated into construction. Please indicate the status of the component that is being reviewed:

☐ Component ordered but not yet delivered

☐ Component delivered, but not yet installed (stored material)

☐ Component installed or incorporated into construction

#### Documentation Review

d. Indicate the location and type of documentation indicating country-of-manufacture available by writing a location code on the line next to the appropriate documentation type. See box in the bottom right corner for location codes. For additional information on types or combinations of documentation that are acceptable in meeting the requirements of the Buy American provisions, see the reference guide.

\_\_\_\_\_ Substantial transformation checklist with detailed and specific descriptions of manufacturing processes, completed by:

- ☐ Assistance recipient  
☐ Vendor or supplier  
☐ Manufacturer

\_\_\_\_\_ Certification from manufacturer

\_\_\_\_\_ Verification of manufacturing location from manufacturer

\_\_\_\_\_ Print-outs from manufacturer's website

\_\_\_\_\_ Shipping manifest or bill of lading

\_\_\_\_\_ Cut sheets or invoice(s)

\_\_\_\_\_ Other: \_\_\_\_\_

#### Onsite Review

e. Component is the same general character and type as described in the documentation Y N  
○ ○

f. Country-of-origin labeling is consistent with the documentation (ie., labeling does not indicate foreign origin) Y N  
○ ○

g. Notes:

#### Location codes:

- A - On-file with assistance recipient  
 C - On-file with construction contractor  
 E - On-file with engineering consultant  
 P - At the project site

6

Slide 56



## Section B-6

- Confirm that documentation is available for selected components, and that the character and type and country-of-origin markings of any stored or installed and accessible component is as described in the documentation
- “Assistance recipients will make this determination for a finished good by obtaining information about the processes used and applying the questions set forth in the Section below, *“Analysis to Determine Whether Substantial Transformation Has Occurred in the U.S.” – EPA Guidance*, [http://www.epa.gov/water/eparecovery/docs/10\\_23\\_09\\_Substantial Transformation\\_memo\\_Final.pdf](http://www.epa.gov/water/eparecovery/docs/10_23_09_Substantial_Transformation_memo_Final.pdf)

### Section B-6

## Appropriate Documentation

- The best documentation is a copy of the substantial transformation checklist filled out with detailed supporting information from a component's manufacturer

Appropriate Documentation

## Appropriate Documentation

- However, EPA has recognized that several other types of documentation *may* be sufficient to demonstrate a good is American-made:
  - Manufacturer's certification
  - Verification of manufacturing location from the manufacturer
  - Print-outs from the manufacturer's website
  - Shipping manifests or bills of lading
  - Cut sheets or invoices

Appropriate Documentation

## Appropriate Documentation

- For all American-made iron, steel, and manufactured goods, assistance recipients should keep documentation showing:
  1. **Specific details on the transformation that occurred in the US**
  2. **Where in the US that transformation occurred**
- It is up to assistance recipients (with the help of their contractors or engineers) to determine what documentation is sufficient

Appropriate Documentation

***“Manufacturing facilities in Carnegie, Pennsylvania and Gastonia, North Carolina”***

The screenshot shows a website with a red navigation bar at the top containing links: About, New, Industries Served, Products, Special Projects, Contact/Literature, Jobs, and Rep Locator. Below the navigation bar is a large image of industrial machinery. A red 'Menu' button is on the left, with links: Contact us, Find a sales rep, and Trade shows / Seminars. The main content area is titled 'ARRA Requirements' in red. Below the title is a sub-header: 'American Recovery Reinvestment Act (ARRA) Section 1605 "Buy American" Requirements'. There is a photo of a building with a 'Red Valve' sign. To the right of the photo, text states: 'With manufacturing facilities in Carnegie, Pennsylvania, and Gastonia, North Carolina, Red Valve Company and Tideflex® Technologies are proud to announce that all of its products for use on any American Recovery and Reinvestment Act (Section 1605) project will be made 100% in the United States per the "Buy American" requirements. We have carefully reviewed Section 1605 and the "Joint Explanatory Statement to Section 1605". We assure our representatives, engineers, and customers that all of the design, development, castings, elastomers, machining, assembly, and testing, will be accomplished 100% within the United States making your project, compliant with these guidelines.'

***“all of the design, development, castings, elastomers, machining, assembly, and testing, will be accomplished 100% within the United States”***

Slide 61

## Section B-6 Onsite Review

- If possible, do the documentation review and the onsite review for the same component
- Conduct a visual inspection of onsite components to check:
  - Country of origin labeling (if visible)
  - Manufacturer's name is the same as on Buy American documentation previously viewed for that component

Section B-6 Onsite Review



Slide 63



Slide 64



## Section B-7

Confirm that items covered by a  
project-specific waiver are in  
compliance

Section B-7

## Section B-7

- Applies only to projects that have received a project-specific waiver of Buy American for a particular component
- EPA posts Federal Register notices for project-specific waivers online:  
<http://www.epa.gov/water/eparecovery/>
- Waiver is only valid if all the documentation and conditions named in the waiver are present

Section B-7

**7. Confirm that items covered by a project-specific waiver are in compliance**

*Section B-7 may not be applicable to this project or this inspection. If so, please indicate reason for skipping Section B-7:*

☐ N/A - project has not received a project-specific Buy-American waiver

*If the project has received a project-specific waiver of the Buy American requirements, this waiver should have been published in the Federal Register. Compare the conditions for the waiver, as described in the Federal Register notice, to documentation of foreign-made component that was procured*

a. Description of component(s) for which waiver was approved:

*Sections B-8d and B-8e may not be possible to complete if a component has been ordered and not yet delivered, or if a component has been installed or incorporated into construction. Please indicate the status of the component that is being*

☐ Component ordered  
but not yet delivered

☐ Component delivered, but not  
yet installed (stored material)

☐ Component installed or  
incorporated into construction

<i>Documentation Review</i>		<i>Onsite Review</i>	
b. Assistance recipient and/or contractor maintains a copy of the Federal Register notice of the approved project-specific waiver	Y N	d. Component is the same character and type as described in the Federal Register notice	Y N
c. Assistance recipient and/or contractor maintains any additional supporting documentation specified in the Federal Register Notice of Approval	Y N	e. Country-of-origin labeling (if visible) is consistent with the description in the Federal Register notice	Y N
		f. Notes:	

Slide 67

## Section B-7

- Guidance does not include specific language, however it is clear from waivers that have been granted already that they are granted for specific circumstances
- Assistance recipients are only in compliance if they procure the exact components described and approved in the Federal Register notice

Section B-7

## Section B-8

Confirm that the de minimis waiver is  
applied correctly

Section B-8

## Section B-8

- Applies only to projects that use the national de minimis waiver
- Allows 5% of materials costs to be exempted from Buy American for the purchase of de minimis items
- If an assistance recipient is NOT using the de minimis waiver, they must have documentation to show that all incidental components were manufactured in the U.S.

Section B-8

**8. Confirm that the de minimis waiver is applied correctly**

- ☐ N/A - Project qualifies for the National Bid or Refinance Waiver      ☐ N/A - No incidental components have yet been ordered for this project      ☐ N/A - Project does not require any incidental components

*Documentation Review*

- a. Assistance recipient and/or contractor maintains an itemized list of incidental manufactured goods **Y N**
- b. Assistance recipient and/or contractor maintains receipts or invoices showing total value of exempted items **Y N**

*Onsite Review*

- c. The de minimis waiver is only applied to incidental project components that are generally miscellaneous, small, and low-cost **Y N**

*The de minimis waiver applies to up to 5% of materials costs to be exempted from Buy American requirements. For most inspections, compare the value of incidental manufactured goods exempted from Buy American to the estimated materials costs from the plans and specs. On the final or close-out inspection, compare the value of items exempted from de minimis to the actual final materials cost. This value of items exempted should not exceed 5% of total materials costs.*

Value of incidental manufactured goods exempted from Buy American: \_\_\_\_\_

- d. Items exempted under the de minimis waiver make up 5% or less of total materials cost **Y N**

Estimate/final cost of materials (to be) procured for project: \_\_\_\_\_

e. Notes:

Percentage of material costs exempted: \_\_\_\_\_

7

Slide 71

## Section B-8a, B-8b, and B-8d

- Confirm that assistance recipient or contractor is maintaining records as required, and that records show less than 5% of materials costs have been exempted under de minimis

*"Assistance recipients who wish to use this waiver should in consultation with their contractors determine the items to be covered by this waiver, must retain relevant documentation as to those items in their project files, and must summarize in reports to the State the types and/or categories of items to which this waiver is applied, the total cost of incidental components covered by the waiver for each type or category, and the calculations by which they determined the total cost of materials used in and incorporated into the project." – EPA De Minimis Waiver (revised)*

[http://www.epa.gov/water/eparecovery/docs/2009\\_08\\_10\\_FR\\_Revised\\_De\\_Minimis.pdf](http://www.epa.gov/water/eparecovery/docs/2009_08_10_FR_Revised_De_Minimis.pdf)

Section B-8a, B-8b, and B-8d



## Section B-8c

- Confirm that components exempted under de minimis (when available) are incidental

*“Every water infrastructure project...involves the use of literally thousands of miscellaneous, generally low-cost components that are essential for, but incidental to, the construction and are incorporated into the physical structure of the project, such as nuts, bolts, other fasteners, tubing, gaskets, etc... EPA is hereby issuing a national waiver from the requirements of ARRA Section 1605(a) for any components described above as incidental that comprise in total a de minimis amount of the project, that is, for any such incidental components up to a limit of no more than 5 percent of the total cost of the materials used in and incorporated into a project.*

– EPA De Minimis Waiver (revised),  
[http://www.epa.gov/water/eparecovery/docs/2009\\_08\\_10\\_FR\\_Revised\\_De\\_Minimis.pdf](http://www.epa.gov/water/eparecovery/docs/2009_08_10_FR_Revised_De_Minimis.pdf)

## Section B-8c

## How to Address Common De Minimis Issues

- Issue: “My contractor won’t share the total cost of materials since it is proprietary bidding information”
- Response: The alternative is for the contractor to obtain detailed Buy American documentation for every incidental component.
- Many contractors will be required to submit invoices with stored materials costs in order for the assistance recipient to be reimbursed by the SRF
- An incomplete list of total materials costs just lowers the amount of de minimis items that can be exempted under the 5% rule

How to Address Common De Minimis Issues

## How to Address Common De Minimis Issues

- Issue: “I won’t know the total materials cost until the end of the project – what if costs come in low?”
- Response: Build in a buffer
- Or, be prepared to apply for a waiver for the additional de minimis items

How to Address Common De Minimis Issues

## How to Address Common De Minimis Issues

- Issue: “How do I address de minimis if I have multiple contracts under a single ARRA project?”
- Response: It is the assistance recipient’s decision whether to:
  - Allow each contractor to exempt 5% of the materials cost for their contract
  - Combine the total materials cost of all the contracts, and allot 5% of that amount to one contractor
  - Utilize any other split, as long as the total cost of exempted de minimis items remains no more than 5% of total materials cost for the entire project

How to Address Common De Minimis Issues

## Question and Answer Session #3

Have a question?  
Submit it using the Q&A console

Question and Answer Session #3

## Section B-9

Confirm that green components are  
incorporated into the project as  
planned

Section B-9

## Section B-9

- Only applies to Green projects
- State is confirming that green components or design features that were included in project plan and design are in fact installed
  - Assistance recipients is receiving “Green Funds” so the ultimate project must include those aspects

Section B-9

9. Confirm that green components are incorporated into the project as planned.....

Section B-6 may not be applicable to this project or this inspection. If so, please indicate reason for skipping Section B-6:

- ☐ N/A - Not a Green Reserve project
- ☐ N/A - Green components satisfactorily reviewed in previous inspection
- ☐ N/A - Current stage of construction not allow for review of green components

a. Description of green component(s) or design feature(s):

Documentation Review		Onsite Review	
b. Project is categorically qualified for the Green Reserve, or the assistance recipient and/or contractor maintains a copy of an approved business case including supporting documentation (as required, see Section A-1i)	Y N	c. Green design and/or equipment is incorporated into the project as described in the project plans and/or business case	Y N
		d. The green components used in the project are the same character and type as described in the project plans and/or business case	Y N
		e. Notes:	



## Section B-9

- Confirm that the project includes the green components that made the project categorically green or were used in the business case developed for the project.

“In order to ensure that the Green Project Reserve is used for projects consistent with the intent of the ARRA, EPA has developed project descriptions and examples for the CWSRF (Attachment 7) and the DWSRF (Attachment 8). For both SRFs, there are certain project types that clearly meet the intent of the ARRA, and there are other project types that may or may not meet the law's intent for the Green Project Reserve. For any project to be counted toward meeting the 20% Green Project Reserve, their project files must contain documentation of the business case on which the project or project component was judged to qualify toward meeting the goal.

— EPA Guidance,

[http://www.epa.gov/water/eparecovery/docs/2009\\_09\\_30\\_SRF\\_Tracking\\_and\\_Reporting\\_Guidance\\_FIN\\_AL.pdf](http://www.epa.gov/water/eparecovery/docs/2009_09_30_SRF_Tracking_and_Reporting_Guidance_FIN_AL.pdf)

## Section B-9

## Section B-10

Confirm that the project is in  
compliance with remaining  
requirements

Section B-10

## Section B-10

- Miscellaneous remaining requirements
- Relate to job creation/retention reports as well as remaining postering requirements

Section B-10

**10. Confirm that project is in compliance with remaining ARRA requirements**

<i>Documentation Review</i>		<i>Onsite Review</i>	
a. Assistance recipient maintains documentation supporting job creation/retention reports that have been submitted to the State	<input type="checkbox"/> Y <input type="checkbox"/> N	c. If the number of workers observed working onsite is significantly lower than the cumulative number of jobs created/retained reported (see Section A-2a), provide an explanation (example: previous stage of construction required a greater number of workers):	
b. Job creation/retention reports are developed according to methods described in EPA and State guidance	<input type="checkbox"/> Y <input type="checkbox"/> N	Workers observed onsite: _____	
		_____	
		_____	
		d. ARRA logo is posted at the construction site	<input type="checkbox"/> Y <input type="checkbox"/> N
		e. ARRA whistleblower poster is posted at the construction site	<input type="checkbox"/> Y <input type="checkbox"/> N
		f. Notes:	

8

Slide 84

## Section B-10a and B-10b

- Confirm the process used by the assistance recipient to develop the reports that were checked in Section A-2a and A-2b
- There is no one source here because states have flexibility to get jobs data from borrowers at different times in different forms

Section B-10a and B-10b

## Section B-10c

- There has been concern throughout the country that ARRA assistance recipients are over-reporting jobs data
- If the number of jobs reported is significantly higher than the number of workers observed onsite, ask for an explanation
  - May simply be explained by the current construction phase or schedule

Section B-10c

## Section B-10d

- Confirm contractor has posted ARRA logo at the project/construction site

*“Projects funded by the American Recovery and Reinvestment Act (ARRA) will bear a newly-designed emblem. The emblem is a symbol of President Obama’s commitment to the American People to invest their tax dollars wisely to put Americans back to work.”*

*– General Guidelines for Emblem and Logo Applications*

[http://www.epa.gov/ogd/forms/Recovery\\_emblem\\_guide\\_v1\[1\].pdf](http://www.epa.gov/ogd/forms/Recovery_emblem_guide_v1[1].pdf)

Section B-10d

## Section B-10e

- Confirm that contractor has posted ARRA whistleblower poster at the project/construction site

*“Any employer receiving covered funds shall post notice of the rights and remedies provided under [ARRA §1553: Protecting State and Local Government and Contractor Whistleblowers].” – ARRA §1553(e)*

*– EPA Davis-Bacon Terms and Condition §1(5)(a)*

[http://www.epa.gov/ogd/tc/State\\_Revolving\\_Funds.pdf](http://www.epa.gov/ogd/tc/State_Revolving_Funds.pdf)

Section B-10e



# Whistleblower Poster



[www.recovery.gov/contact/ReportFraud/documents/Whistleblower+Poster.pdf](http://www.recovery.gov/contact/ReportFraud/documents/Whistleblower+Poster.pdf)

Whistleblower Poster

# ARRA Reference Guide

ARRA Reference Guide

## Checklist Reference Guide

- Summarizes the information in this presentation in chart form
- For each item on the checklist:
  - Exact requirement
  - Source of that requirement (link to guidance or other document online)
  - Explanation as to suggested process for completed checklist item
  - Location where the review will generally take place (assistance recipients office, construction site, etc)

Checklist Reference Guide

Item	Requirement	Source of Requirement	Directions for completing checklist	Expected Location of Item
B-5d	"The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program."i)	EPA Grant Davis-Bacon Term and Condition §(3)(a)(4)(i-ii): <a href="http://www.epa.gov/od/tc/State_Revolving_funds.pdf">http://www.epa.gov/od/tc/State_Revolving_funds.pdf</a>	Apprentice/trainee employment plans approved by U.S. Department of Labor (DOL) or State Apprenticeship Agency include a maximum ratio of apprentices to journeymen (laborers and mechanics receiving full Davis-Bacon wages) that may be present onsite at any one time. The EPA Davis-Bacon grant condition requires assistance recipients to confirm the correct ratio of apprentices and trainees as part of the onsite Davis-Bacon wage interview and apprentice/trainee registration check.	Assistance Recipient Files
	"The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by" DOL		Note the ratio from the approved plan. Then, have the assistance recipient describe the process used to confirm the correct ratio of apprentices and trainees. While there is no required method for this review, there are several possibilities. Assistance recipients might review a sample of payroll records and compare the hours worked by apprentices/trainees to the hours worked by regular laborers and mechanics for each day. Alternatively, assistance recipients can count all laborers and mechanics on the job site on a given day and ask the contractor to point out those that are apprentices or trainees (interviews can be used to substantiate).	
B-6a	-	-	The number of components to be review during each inspection should be determined by the State SRF program managers and staff assigned to the project. A larger number of components should be reviewed for larger projects and/or projects that include complicated design or construction. Additionally, it may be appropriate to review a greater number of components during inspections conducted during the middle of construction, as compared to inspections conducted earlier or later in construction.	Assistance Recipient and/or Contractor Files
			Provide a brief description of the individual component selected for review, including manufacturer information and the intended use in the project. To select components for review, ask the assistance recipient's consulting engineer or project manager to help locate materials that are accessible for review. If possible, try to inspect types of components that are more difficult to procure domestically (for instance, pumps, motors, or specialty technology as opposed to pipes or sheet metal).	

Slide 92

## Question and Answer Session #4

Have a question?  
Submit it using the Q&A console

Question and Answer Session #4

# Addressing Non-Compliance

Addressing Non-Compliance

## Addressing Non-Compliance: Buy American

- If an assistance recipient has procured foreign-made iron, steel or manufactured goods (not covered by a waiver), they are out of compliance
  - Even if the component has not yet been incorporated into the project

Addressing Non-Compliance: Buy American

## Addressing Non-Compliance: Buy American

The recipient has three options:

1. Use the materials in a different, non-ARRA project
  - And remove them from the ARRA project site
2. Send the materials back to the manufacturer
3. In some limited circumstances, it may still be possible to receive a waiver
  - EPA will address late waiver requests on a case-by-case basis
  - States should gather detailed information about the situation and talk to the EPA Region

Reminder: Paying for the materials with a different funding source is NOT an option!

Addressing Non-Compliance: Buy American



## Addressing Non-Compliance : Davis-Bacon

- If workers aren't being paid correct wages
  - Assistance recipient should incorporate correct wage rates into the contract via change order
  - Assistance recipient must pay back wages retroactive to the beginning of the contract
- If apprentices and trainees aren't registered
  - Get them registered
  - There is no retroactive registration. Assistance recipient must pay apprentices/trainees full Davis-Bacon back wages for the time they were unregistered
- If interviews weren't conducted on schedule
  - Recipient should conduct them as soon as possible

Addressing Non-Compliance : Davis-Bacon

## Addressing Non-Compliance : Reporting

- If the assistance recipient has been using incorrect methodology to report jobs:
  - **They should not** adjust current workhour estimates to correct prior reporting quarters
  - “For corrections to prior quarters... recipients will be required, at a time and process to be specified in the future, to the submit this information to the Federal government”
  - Keep adjustments in their records in case the numbers are questioned at a later date

Addressing Non-Compliance : Reporting

# Fitting the National ARRA Checklist into Existing State Processes

Fitting the National ARRA Checklist into Existing State Processes

## Fitting ARRA into Existing Inspection Process

- How can the checklist/topics on the checklist be integrated into existing State processes most effectively?
- If States are limited in the number of visits they can make to assistance recipients, what are other reasonable ways of providing oversight?

Fitting ARRA into Existing Inspection Process

## Additional Resources

- National ARRA checklist (fillable PDF or word)  
[cwsrfttraining.net/recovery/InspectionChecklist/index.html](http://cwsrfttraining.net/recovery/InspectionChecklist/index.html)
- United States Environmental Protection Agency  
CWSRF and DWSRF ARRA website:  
<http://epa.gov/water/eparecovery/>
- National ARRA Handbook for borrowers:  
<http://cwsrfttraining.net/recovery/Handbook/index.html>
- National Davis-Bacon grant terms and conditions:  
[http://www.epa.gov/ogd/tc/State\\_Revolving\\_Funds.pdf](http://www.epa.gov/ogd/tc/State_Revolving_Funds.pdf)

Additional Resources

# Question and Answer Session #5

Have a question?  
Submit it using the Q&A console

Question and Answer Session #5